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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/645,970	08/24/2000	Thomas A. Cain	5019.7	4449

23559 7590 02/23/2005

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EXAMINER

PEREZ GUTIERREZ, RAFAEL

ART UNIT PAPER NUMBER

2686

DATE MAILED: 02/23/2005

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/645,970

Applicant(s)

Cain et al.

Examiner

Rafael Perez-Gutierrez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office Action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 27, 2004 has been entered. **Claims 1-35** are now pending in the present application.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference numbers not mentioned in the description: On **figure 2**, reference numbers **22 and 44** are not mentioned in the description.

3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office Action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must

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be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the Examiner, the Applicant will be notified and informed of any required corrective action in the next Office Action. If a response to the present Office Action fails to include proper drawing corrections, corrected drawings or arguments therefor, the response can be held **NON-RESPONSIVE** and/or the application could be **ABANDONED** since the objections/corrections to the drawings are no longer held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless -- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-35 are rejected under 35 U.S.C. 102(b) as being anticipated by **Cyr et al. (U.S. Patent # 4,974,256)**.

Consider **claims 1, 11, 21, and 30**, Cyr et al. clearly show and disclose a telecommunication system, a load shared processing system, and in connection with a telecommunication switch 1 having a switching fabric through which calls are switched and with

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a plurality of call control processors (CCP) 5, 7 (processing nodes) each capable of performing certain processing in connection with calls routed through the switching fabric (figure 1), a method of dynamically balancing load (work, tasks) among the plurality of call control processors (CCP) 5, 7 (processing nodes) (abstract and figure 1), comprising:

periodically updating a respective processor (node) occupancy value at each of the plurality of CCP 5, 7 (processing nodes) (abstract, figures 2 and 3, column 2 lines 5-16, column 3 lines 7-13, 36-38, and 50-53, and column 6 lines 2-14);

communicating the respective processor (node) occupancy value of each CCP 5, 7 (processing node) to at least one allocation/call control processor (A/CCP) 5 (work originator node/incoming call receiving node) operable to receive incoming calls (figures 1-3, column 2 lines 5-16, column 3 lines 7-13, 33-38, and 50-56, and column 6 lines 2-14);

storing the processor (node) occupancy values of the plurality of CCP 5, 7 (processing nodes) at the at least one A/CCP 5 (work originator node) (this step is inherent in Cyr et al. because these values need to be stored prior to their use for the occupancy calculations) (abstract, figures 2 and 3, and column 3 lines 50-65);

selecting, by the at least one A/CCP 5 (work originator node), a CCP 5,7 (processing node) to serve a call (perform a particular task) in response to the processor (node) occupancy values of the CCP 5,7 (processing nodes) (abstract, figures 1-3, column 2 lines 5-22, column 3 lines 7-13 and 33-65, and column 6 lines 2-14).

Consider **claims 2-4, 12-14, 22, 23, and as applied to claims 1, 11, 21, and 11 above**, Cyr et al. further show and discloses that said step of periodically updating a processor (node)

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occupancy value comprises calculating the processor (node) occupancy value, by each of the plurality of CCP 5, 7 (processing nodes), using a percentage of available processing capacity of the CCP 5, 7 (processing node), using a combination of a percentage of available processing capacity of the CCP 5, 7 (processing node) and a length of its work queue, or using a combination of a percentage of available processing capacity of the CCP 5, 7 (processing node), a length of its work queue, and its processing speed (column 3 line 50 - column 4 line 30).

Consider **claims 5-10, 15-20, 24-29, and 31-35**, and as applied to **claims 1, 11, 21, and 30 above**, Cyr et al. clearly show and disclose the claimed limitations in the abstract, figures 1-3, column 2 line 5 - column 3 line 13, column 3 line 27 - column 6 line 14.

Response to Arguments

5. Applicant's arguments with respect to **claims 1-35** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Any response to this Office Action should be **faxed to (703) 872-9306 or mailed to:**

Commissioner for Patents
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Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rafael Perez-Gutierrez whose telephone number is (703) 308-8996. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Marsha D. Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700 or call customer service at (703) 306-0377.


Rafael Perez-Gutierrez

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R.P.G./rpg **RAFAEL PEREZ-GUTIERREZ**
PATENT EXAMINER

February 22, 2005